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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,564	02/13/2001	Toshiaki Okuno	50212-191	2297
20277 7590 05/29/2009 MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096				
EXAMINER				
TRAN, DZUNG D				
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05/29/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOSHIAKI OKUNO
and
MASAYUKI NISHIMURA

Application No. 09/781,564
Technology Center 2600

Mailed: May 28, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on May 27, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

PRIOR ORDER FOR RETURN

A prior “Order Returning Undocketed Appeal to Examiner” was mailed on April 18, 2008, wherein the Examiner was instructed that corrections were required. A review of the file finds that the required corrections have not been made. The matters still requiring attention prior to docketing are identified below.

APPEAL BRIEF, SUMMARY OF CLAIMED SUBJECT MATTER

Appellant filed an Appeal Brief dated January 29, 2007. The Appeal Brief is not in compliance with 37 CFR § 41.37(c) effective September 13, 2004.

According to 37 CFR § 41.37(c) (v), an Appeal Brief must include the following:

(v) *Summary Of Claimed Subject Matter*. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of Claimed Subject Matter” appearing on pages 2-6 of the Appeal Brief filed January 29, 2007 is deficient because it does not separately map independent claims 1, 6, 11, 16, 17, and 18 to the specification. Correction is required.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed in this application on January 16, 2007. There is no evidence on the record indicating that the Examiner has considered the Reply Brief in accordance with 37 CFR CFR § 41.43(a)(1) and MPEP § 1208, part II.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

1) hold the Appeal Brief filed January 29, 2007, defective, as required by 37 CFR § 41.37(d);

2) notify the Appellant to submit a "paper" which corrects the Appeal Brief's Summary of Claimed Subject Matter;

3) acknowledge and consider any "paper" submitted by Appellant which corrects the Appeal Brief;

4) consider the Reply Brief filed January 16, 2007 as indicated above;

5) for such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/mev

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